

# JUSTICE *FOR* ALL

*Summer 2002*

*Dear Friends,*



*This year's legislative session was the longest session in state history - 107 days - as lawmakers struggled to balance the state budget with spending cuts and tax increases.*

*A number of significant bills, however, were passed and signed by Governor Bill Graves. Among these were bills that: create a special program fund for sexual assault services; increase court fees to benefit the Kansas Law Enforcement Training Center fund; amend the Protection From Abuse Act to include dating relationships and clarify mutual orders; create a new law to help stalking victims get protection orders; and allow registered professional nurses and licensed physician assistants to conduct sexual assault evidence collection examinations.*

*I am very grateful that the 2002 Legislature and the Governor enacted these provisions, thereby continuing the enhancement of rights for crime victims in Kansas.*

*Very truly yours,*

*Carla J. Stovall*

*Carla J. Stovall,  
Attorney General*



## **ATTORNEY GENERAL CARLA J. STOVALL CRIME VICTIMS' RIGHTS NEWSLETTER**

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# **2002 LEGISLATION**

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Although the 2002 Kansas Legislative session was dominated by budget and redistricting issues, lawmakers passed a number of significant new laws and amendments to benefit crime victims. The following is a list of some of the bills passed during the session. Copies of bills can be found on the internet at [www.kslegislature.org](http://www.kslegislature.org).

## **HOUSE BILLS**

### **CRIMINAL SENTENCING - UPWARD DEPARTURE**

#### **HB 2154**

The bill amends the Kansas sentencing laws to require that any fact that would increase the penalty for a crime beyond the statutory maximum, other than a prior conviction, must be submitted to a jury and proved beyond a reasonable doubt. The bill provides that whenever a person is convicted of a felony, the court, upon motion of the prosecutor, shall determine whether evidence presented warrants an increased penalty beyond the statutory maximum, and, if so, the court will conduct a separate departure sentence proceeding before the trial jury.

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### **OFFENDER REGISTRATION**

#### **HB 2399**

Juvenile offenders will be required to register under the Offender Registration Act if they commit crimes which, if committed by adults, would require registration. The requirement to register would expire when the juvenile reaches the age of 18 or five years following adjudication, whichever is later.

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### **CHILD AUTOPSIES**

#### **HB 2666**

This law directs the Secretary of Health and Environment to reimburse county coroners for child death autopsies performed pursuant to protocols developed by the

State Child Death Review Board. Payment will be made from the District Coroners' Fund with increased fees for copies of death certificates. The bill reconciles KSA 65-2418 and 65-2418a, with the latter being repealed.

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## **SEXUAL ABUSE / CHILD IN NEED OF CARE**

### **Sub. for HB 2673**

The phrase "regardless of the age of the child" has been deleted from the definition of sexual abuse under the child in need of care law, making the age of the child a matter to be governed by the Criminal Code.

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## **DNA COLLECTION / SEXUAL ASSAULT EXAMS**

### **HB 2880**

This bill requires collection of DNA samples from persons convicted of a number of felonies when the victim is less than 18 years of age. HB 2744 was amended into this bill to allow for registered professional nurses and licensed physician assistants to conduct sexual assault evidence collection examinations.

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# ***SENATE BILLS***

## **OFFENDER SUPERVISION**

### **SB 95**

This bill enacts the Interstate Compact for Adult Offenders Supervision which controls, regulates, and tracks the interstate movement of offenders. The compact will become effective upon enactment by 35 states.

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## **EARLY MEDICAL RELEASE**

### **Senate Sub. for SB 339**

The Kansas Parole Board has authority to grant early release to persons deemed to be functionally incapacitated by the Secretary of Corrections. Written notice of the application for early release will be given to the prosecuting attorney and judge of the court in which the person was convicted, and any victim of the person's crime or the victim's family. The parole board cannot act on the application until at least 30 days after written notice is given.

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# 2002 LEGISLATION

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## SENATE BILLS *continued*

### VICTIM NOTIFICATION

#### House Sub. for SB 434

This bill has been amended to contain provisions from a number of different House bills, such as requiring the Department of Corrections to notify crime victims whenever the Kansas Parole Board schedules a public comment session for offenders convicted of off-grid crimes, and adding sexual battery and aggravated sexual battery to the list of offenses that cannot be expunged from an offender's criminal history.

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### PROTECTION FROM STALKING

#### SB 474

The Protection from Stalking Act is enacted by this bill. The bill authorizes victims of stalking to file a petition in district court to seek a protection from stalking order. An order may include restraining the defendant from following, harassing, telephoning, contacting, or communicating with the victim.

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### PROTECTION FROM ABUSE

#### SB 475

The Protection From Abuse Act is expanded to allow persons in a dating relationship to obtain a Protection From Abuse order. SB 475 limits the issuance of mutual orders only when specific findings of abuse are found against both parties and when both parties have filed for such an order. This bill requires that all temporary, amended, final and other protective orders shall be entered into the National Criminal Information Center (NCIC) Protection Order File.

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### PROTECTION FROM ABUSE FUND

#### SB 477

The civil court docket fee is increased by four dollars, from \$101 to \$105, with the increase to be placed in the Protection From Abuse Fund. Additionally, sexual assault services will now be eligible to receive Protection From Abuse funds.

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# STALKING

Beginning on July 1, 2002, victims of stalking, through the enactment of SB 474, will be able to obtain a Protection From Stalking order. If violated, the offender could be charged criminally and face a fine and/or imprisonment if convicted.

Victim advocates and law enforcement officers must know how to effectively help stalking victims. Stalking is an intentional harassment of another person that places the other person in reasonable fear for that person's safety. Stalking victims are not to blame for the crimes committed against them, and many times they are so terrorized that they are unable to think of and implement ways to deter a stalker. It is very important that victims relay all information about the stalking to law enforcement, and effective assistance from a victim advocate is vital to keeping victims safe.

While each stalking case is different, there are certain steps that victim advocates can take to provide the most effective services to victims. They can help a victim identify safe places in the community which are open and staffed 24 hours a day where he or she may go when being followed. These are places such as convenience stores, fire stations and emergency rooms. Victims should also be advised to keep a camera handy, have an unlisted or unpublished telephone number and caller ID, and keep a detailed journal of all direct or indirect contacts to assist in law enforcement investigations. Additionally, victims should use various routes of travel when going to and from work and other places frequently visited.

The Kansas Bureau of Investigation (KBI) has information on stalking kits which can provide some assistance to victims. Included in these kits are items such as a microcassette recorder with tapes, a disposable camera, a personal door alarm, a suspect ID pad with pen, and various brochures on security, safety and abuse. Advocates should become familiar with how to obtain a kit for a stalking victim. For information about putting together stalking kits, contact the Attorney General's Crime Victims' Rights Division or the KBI.

More information on stalking can be found on the internet at [www.antistalking.com](http://www.antistalking.com).

# **2002 CRIME VICTIM SERVICE AWARDS**

Attorney General Carla Stovall announced this year's recipients of the Crime Victims' Service Awards at the annual Crime Victims' Rights Conference in Topeka on April 17-18, 2002. All were recognized for their strong commitment to crime victims and crime victims' rights issues.

## **OUTSTANDING LAW ENFORCEMENT OFFICER**

James Braun  
Police Chief, Hays Police Department

## **OUTSTANDING PROSECUTOR**

Julie Richey  
Crawford County Attorney

## **OUTSTANDING JUDGE**

Theodore B. Ice  
9th Judicial District

## **OUTSTANDING VICTIM ADVOCATE**

Sue W. Lockett  
Executive Director, CASA of Shawnee County, Inc.

## **OUTSTANDING VICTIM SERVICE ORGANIZATION**

Sunflower House  
Wyandotte and Johnson Counties

## **OUTSTANDING BUSINESS**

Via Christi Regional Medical Center  
Sedgwick County  
Newman Regional Health  
Lyon County

## **OUTSTANDING INDIVIDUAL**

Ann Harrell  
Program Coordinator, Via Christi SANE/SART

# ***U.S. SUPREME COURT RULES ON SEX OFFENDER PROGRAM***

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On June 10, 2002, the United States Supreme Court again ruled in favor of the state's attempt to rehabilitate sex offenders when it upheld the provisions of a Kansas program. The decision in *McKune v. Lile* found that the Kansas Sexual Abuse Treatment Program, or SATP, is constitutional.

"This is yet another victory in the fight to protect the citizens of Kansas from dangerous sex offenders," Attorney General Stovall said. "I am very pleased that the justices found that the Kansas program does not run afoul of the Fifth Amendment, thereby providing offenders with much-needed treatment."

Robert G. Lile, who is serving a prison sentence for convictions of rape and other crimes, filed a lawsuit with the U.S. District Court for the District of Kansas claiming that the SATP violated his constitutional right against self-incrimination. The program requires an admission of all past sexual activities in an effort to better assist the inmate in receiving treatment, and certain prison privileges are reduced if an inmate refuses to participate. The District Court ruled in Lile's favor, and the 10th Circuit Court of Appeals upheld that ruling. Attorney General Stovall appealed the decision to the U.S. Supreme Court, and State Solicitor for Kansas Steve McAllister argued the case on the state's behalf on November 28, 2001.

In reversing the 10th Circuit, Justice Anthony Kennedy wrote, "The Kansas SATP represents a sensible approach to reducing the serious danger that repeat sex offenders pose to many innocent persons, most often children. The State's interest in rehabilitation is undeniable. There is, furthermore, no indication that the SATP is merely an elaborate ruse to skirt the protections of the privilege against compelled self-incrimination. Rather, the program allows prison administrators to provide to those who need treatment the incentive to seek it."

# ***STOVALL RECEIVES AWARD FROM TOBACCO-FREE KIDS***

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Attorney General Carla J. Stovall is the latest recipient of the Champion Award from the Campaign for Tobacco-Free Kids. The award was presented to Attorney General Stovall at a ceremony on May 8 in Washington, D.C.

Bill Novelli, Chairman of the Board for Campaign for Tobacco-Free Kids, presented the award to Attorney General Stovall citing her accomplishments in the landmark tobacco lawsuit, her service on the board of the American Legacy Foundation, her continuing efforts to prevent youth tobacco use, and her pursuit of retailers who sell tobacco illegally to minors. Novelli was the Campaign's first president, and is currently employed as executive director and CEO of AARP.

"I am honored to receive this award from people who care deeply about protecting our kids from tobacco addiction," Attorney General Stovall said. "And I commend the efforts of the Campaign's young advocates who are making tobacco prevention a priority for their generation."

Attorney General Stovall particularly mentioned the work of 16 year-old Jamie Fiorucci-Hughes of Paola, who was recognized at the event as a regional youth advocate winner.

"Jamie has been instrumental in mobilizing kids across the state to stand up against tobacco and she richly deserves this honor," Attorney General Stovall said. Fiorucci-Hughes was recently appointed as the youth member of the American Legacy Foundation's 11-member Board of Directors.



# ***D.A.R.E. UPDATE***

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The Robert Wood Johnson Foundation has awarded the Institute for Health and Social Policy at the University of Akron \$13.7 million to develop the next generation of substance abuse prevention programming for a state of the art Drug Abuse Resistance Education (D.A.R.E.) curriculum revision, which includes a five-year longitudinal evaluation and study of 50,000 students. Zili Sloboda, who is a former director of the National Institute on Drug Abuse (NIDA), will direct the project. The new material is based on the latest prevention research and has been field tested nationwide. Glenn Levant, President of D.A.R.E. America, said D.A.R.E. is pleased to be a part of the project which will bring together D.A.R.E.'s renowned school delivery system with the best evidence-based curriculum for the nation's children.

The first step in the implementation of the new curriculum will be a six-hour training on facilitation skills for all certified D.A.R.E. officers, with sessions scheduled to begin in Kansas in the summer of 2002. The Attorney General's office is pleased to be able to support this training for the new curriculum by providing grant funding to help law enforcement agencies with the cost of attending the training. The training prepares the officers for a major shift in the delivery system. The new strategy is student centered cooperative learning and will incorporate much of the latest research on the best learning methods for students. Once the officers have successfully completed this first phase of the re-certification process, they will be trained in the new curriculum for implementation in schools beginning in the fall of 2003.

In Kansas, D.A.R.E. is taught by 253 certified officers from 122 law enforcement agencies all across the state. More than 132,000 students were taught the D.A.R.E. program in Kansas in 2001.

For more information about the D.A.R.E. program, please call 785-368-8460.

# SCDRB REPORT: SUICIDE AND KANSAS KIDS

Suicide is a serious public health problem. The State Child Death Review Board (SCDRB) has reviewed the deaths of 106 Kansas children who took their lives in the six year period from 1994 through 1999. A National Youth Risk Behavior Survey conducted in 1995 of students in grades 7 through 12 indicated that nearly one-fourth of the students had seriously considered attempting suicide during the 12 months preceding the survey, nearly 18 percent had made a specific plan and nearly 9 percent had made a suicide attempt.

Attorney General Stovall and the SCDRB want to remind all persons who work with adolescents and children about the common risk factors for suicide such as: previous suicide attempts; family history of suicide; mental disorders (particularly mood disorders such as depression and bipolar disorder); co-occurring mental and alcohol and substance abuse disorder; personal failure; recent loss, including death of close friends or family, divorce, or a breakup with a boyfriend or girlfriend; accessibility to firearms; history of family violence; lack of support or resources; and social isolation.

Additional resources for suicide prevention and mental health information:

ANSWER - Mental Health Association of the Heartland  
[www.teenanswer.org](http://www.teenanswer.org)

American Academy of Child and Adolescent Psychiatry  
[www.aacap.org/web/aacap](http://www.aacap.org/web/aacap)

American Association of Suicidology  
[www.suicidology.org](http://www.suicidology.org)

National Institute of Mental Health (NIMH)  
[www.nimh.nih.gov](http://www.nimh.nih.gov)

Substance Abuse and Mental Health Administration (SAMHSA)  
[www.samhsa.gov](http://www.samhsa.gov)

Suicide Prevention Advocacy Network (SPAN)  
[www.spanusa.org](http://www.spanusa.org)

Children who are at risk should be assessed thoroughly and follow-up should be arranged for additional evaluation and treatment.

According to the Centers for Disease Control and Prevention (CDC), nearly three of every five suicides in 1997 (58 percent) were committed with a firearm. Of the 106 Kansas children who committed suicide from 1994 through 1999, 58 (55 percent) used a firearm. Caregivers with children who exhibit any risk factors for depression or suicide should consider removing all firearms from the home.

The SCDRB is a multi-disciplinary, multi-agency board that examines the circumstances surrounding the deaths of all Kansas children (birth through 17 years of age) and children who are not Kansas residents, but who die in the state. The goals of the SCDRB are to describe trends and patterns of child deaths in Kansas, to develop prevention strategies, and to improve sources of data and communication among agencies so that recommendations can be made. Additional information on the SCDRB can be found on the Internet at [www.ink.org/public/ksag/contents/scdrb/main.htm](http://www.ink.org/public/ksag/contents/scdrb/main.htm). The SCDRB program also can be contacted by calling 785-296-7970.

A comprehensive resource for suicide prevention is The Surgeon General's Call To Action To Prevent Suicide which outlines steps that can be taken by individuals, communities, organizations, and policymakers, which can be accessed at [www.surgeongeneral.gov/library/calltoaction/default.htm](http://www.surgeongeneral.gov/library/calltoaction/default.htm).

## ***UPCOMING EVENTS:***

**July 21-24, 2002**

**Governor's Conference on Juvenile Justice**

"Alliances for Success"  
Capitol Plaza Hotel, Topeka  
(785) 296-4213

**August 4-7, 2002**

**National Coalition Against Domestic Violence (NCADV) National Conference**

"The 'Herstory' of Our Future: Creating Social Change"  
Kissimmee, Florida  
[www.ncadv.org](http://www.ncadv.org)

**August 18-23, 2002**

**National Organization for Victims Assistance (NOVA) National Conference**

"Celebrate Country: Victims & Advocates United"  
Nashville, Tennessee  
[www.try-nova.org](http://www.try-nova.org)

**September 1-7, 2002**

**National Childhood Injury Prevention Week**

The As Safe As Possible Campaign  
[www.AsSafeAsPossible.org](http://www.AsSafeAsPossible.org)

**October 6-12, 2002**

**National Fire Prevention Week**

National Fire Protection Association  
[www.nfpa.org](http://www.nfpa.org)  
[www.firepreventionweek.org](http://www.firepreventionweek.org)

**October 16-18, 2002**

**26th Annual Governor's Conference for the Prevention of Child Abuse and Neglect**

Kansas Expocentre, Topeka  
(785) 274-3100

**October 17-20, 2002**

**Mothers Against Drunk Driving (MADD) National Conference**

Anchorage, Alaska  
[www.madd.org](http://www.madd.org)

**October 20-26, 2002**

**National School Bus Safety Week**

"School Bus Safety, Show and Tell"  
National Association for Pupil Transportation  
[www.schooltrans.com/safeweek.htm](http://www.schooltrans.com/safeweek.htm)

**December 2002**

**"3D Month" - National Drunk and Drugged Driving Prevention Month**

National Highway Traffic Safety Administration (NHTSA)  
[www.nhtsa.gov](http://www.nhtsa.gov)

# ***KANSAS ORGANIZATION FOR VICTIM ASSISTANCE***

The Kansas Organization for Victim Assistance (KOVA) elected new officers at its annual meeting on April 17, 2002. The mission of KOVA is to promote fair treatment for victims of crime. If you would like more information about KOVA, write to KOVA, P.O. Box 2865, Topeka, KS 66601-2865 or call 1-800-828-9745 to obtain a KOVA brochure.

## 2002 KOVA Officers

President, Linda Carter, Johnson County District Attorney's Office, Olathe

Vice-President, Jodie Dietz, Johnson County District Court, Olathe

Treasurer, Corinne Radke, Parents of Murdered Children, Wichita

Secretary, Debi Holcomb, Kansas Department of Corrections, Topeka